IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CRIMINAL JURISDICTION

CRIMINAL WRIT PETITION NO.999 OF 2005

Smt Vibhuti Vilas Jadhav & ors... Petitioners

versus

State of Maharashtra & ors.. Respondents

Mr. Rafiq Mulani,Adv.i/b Mr.R.V.Bansode, for Petrs.

Mr.S.R.Borulkar,P.P.for Respondents

CORAM : J.N.PATEL AND

SMT.ROSHAN DALVI, JJ

DATED : 18th October, 2006

P.C.

1. The learned P.P. has tendered the affidavit of the Commissioner of Police, Navi Mumbai. The same is taken on record. Copy is furnished to the other side.

2. The petitioners have come to this Court for seeking an order that the investigation of the case

be transferred from the respondent nos. 2 and 3 to the C.B.I. or any other independent agency as the petitioner feels that the Investigating Officer and the team of the Officers concerned with the investigation of the case are not conducting fair investigation which may result in miscarriage ofjustice. We are informed now in the case that the investigation is already concluded and charge sheet has been filed in Crime No.1239 of 2004 of Rabale Police Station, Navi Mumbai against the accused for having committed offences under sections 147, 148, 302, 347, 307, 120 B IPC. The concerned I.O. Mr.N.R.Pathan has been transferred from Navi Mumbai to Thane Rural and is presently posted at LCB Branch, Thane.

3. The Commissioner of Police, Navi Mumbai has assured this Court that an inquiry is being conducted in the matter by the A.C.P. Vashi, Navi Mumbai and after receipt of the report of the E.O. decision regarding further departmental action will be taken in due course. We expect that in case it is found that the then I.O. Mr.Pathan has not carried out the investigation properly or has delayed the investigation to the benefit of the accused, the Home Department, Mantralaya, Mumbai

would take necessary departmental action against him.

4. In so far as the grievance of the petitioners is concerned, we grant them leave to apply to the trial court for seeking directions/orders for carrying out further investigation pointing out the deficiencies in the investigation from the material on record and if such an application is made and the trial Court is satisfied that further investigation in the case is necessary, it may direct further investigation to be carried out and a supplementary charge sheet can be filed in the matter so that before the trial commences and no deficiency in the investigation remains as this will meet the ends of justice.

5. In view of the aforesaid directions, interest of the petitioners stands protected and at this stage no purpose woud be served if the investigation is re-opened by transferring it to any other agency.

6. The petition stands disposed of accordingly.

(Smt R.S.Dalvi,J) **(J.N.Patel,J)**